

Remarks

In response to the Restriction Requirement dated February 14, 2006, applicants elect the Invention of Group I (claims 1-20, 24-33, 35-36) without traverse. Claims 21-23, and 34 have therefore been withdrawn.

In response to the election of species, applicants note that the Examiner alleges that the application contains claims directed to the following species:

1. Specie I to Figures 1-3
2. Specie II to Figure 5

Applicants interpret the Examiner's requirement as focusing on the manner in which the protector is secured to the window well and/or foundation.

In particular, applicant notes that Figure 5 is distinguished from the prior figures in the specification by the presence of hinge 92:

[0021] Figure 5 shows a further embodiment of the present invention wherein the window well cover 10 is mounted to an adjacent wall (e.g., the wall adjacent to the window) via a hinge or swinging bracket 92. In this illustration, the wall forms part of the foundation of the building, and when the hinge 92 is mounted to the wall, the cover 10 can be moved vertically and in a clockwise direction (from the perspective shown in Figure 5) to provide access to the window well.

In contrast, Figures 1-3 employ securing members 60 and 70:

[0014] The top of the hood is formed with a first outward rim flange 10 comprising two securing members 60, e.g., screw holes. The securing members 60 are used to secure the window well cover 10 to a building wall. In certain embodiments according to the present invention, the bottom of the hood can be formed with a second outward rim flange 70 comprising a plurality of second securing members, e.g., stake holes. The second securing members can be used to secure the window to the foundation. In certain embodiments according to the present invention, the second outward rim flange 70 of the hood is angled so that

water runs downward off the second outward rim flange 70. Moreover, the second outward rim flange 70 can extend under the protective hood 20 so as to cover the entire window well.

Therefore, applicant respectfully submits that the claims read on the asserted species as follows:

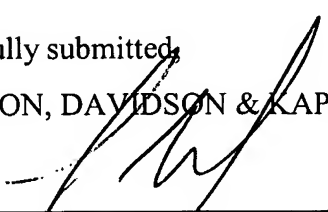
1. Claims 1-16, and 24-30 are generic, as they do not specify any manner of connection to the window well.
2. Claims 17-20, which depend from one of claims 1-3, are directed to the species I.
3. Claims 32, 33, 35, and 36 which depend from claims 2, 3, 24, and 30, are directed to species II;
4. Claim 31 is directed to Species II .

Based upon the above understanding, applicant elects species 2, drawn to claims 31-33, and 35-36, with claims 1-16 and 24-30 being generic. Claims 17-20 have therefore been withdrawn.

Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By

  
Cary S. Kappel  
Reg. No. 36,561

Davidson, Davidson & Kappel, LLC  
485 Seventh Avenue, 14<sup>th</sup> Floor  
New York, New York 10018  
(212) 736-1940